

23 VAC 10-250. TIRE TAX REGULATIONS

~~23 VAC 10-250-10. Definitions.~~

~~The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~"Fund" means the Waste Tire Truck Fund.~~

~~"New tire" means a tire manufactured for first time use on a vehicle. It does not include a worn or used tire that has been reconditioned to a usable state, i.e., recapped or retreaded tires.~~

~~"Replacement truck tire" means a new tire designated by industry standards for use on a truck which is sold to replace a tire attached to or used as a spare on a truck.~~

~~"Retailer of tires" means a person engaged in the business of making retail sales of new tires within this Commonwealth.~~

~~"Retail sale of tires" means the sale of new tires to a person for any purpose other than for resale. The term also includes the withdrawal of new tires from resale inventory for use or consumption by a retailer, including withdrawals from inventory for personal use or for company use. Retail sales do not include the sale of new tires to a person solely for the purpose of resale, provided the subsequent retail sale in this Commonwealth is subject to the tire tax or is otherwise exempt of the tax.~~

~~"Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle for transportation purposes.~~

~~"Vehicle" means any device moving on wheels upon which or by which any person or property is or can be transported or drawn and any device drawn by or designed to be~~

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~~drawn by such a device upon a highway. It includes all terrain vehicles, mopeds, etc., but does not include the devices exempt from the tax in 23 VAC 10-250-31 or off-road equipment or vehicles, such as construction and material handling equipment, riding lawn mowers, aircraft or race cars.~~

~~23 VAC 10-250-20. Imposition of the tax; generally.~~

~~The tire tax is imposed on each retailer of tires in this Commonwealth, in addition to all other taxes and fees currently imposed by law. The tax shall be \$.50 per tire for each new tire sold by a tire retailer, regardless of the selling price of the tire.~~

~~The tax is applicable to new tires sold on or after January 1, 1990, through December 31, 1994.~~

~~23 VAC 10-250-21. Taxable sales.~~

~~A. Generally. All sales of new tires are subject to the tire tax unless the contrary is established. The burden of proving that the tax does not apply rests with the retailer, unless he takes, in good faith from the purchaser, a certificate of exemption indicating that the sale is exempt from the tax. Certificates of exemptions valid for purposes of the retail sales and use tax will generally be acceptable for purposes of the tire tax, except as provided in 23 VAC 10-250-31.~~

~~If a purchaser who gives a certificate of exemption makes any use of the tire other than an exempt use, such use shall be deemed a taxable sale and the purchaser shall be liable for payment of the tax. In the event a purchaser fails to pay the tax upon a~~

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~~nonexempt use of an exemption certificate, the provisions of §58.1-623.1 of the Code of Virginia shall apply.~~

~~B. Maintenance contracts and warranty plans. The tax is applicable to new tires provided to a customer for replacement or exchange under maintenance contracts and warranty plans for which a customer has paid a fee.~~

~~Under original manufacturers' warranties, the tax is applicable in those instances in which a retailer requires a payment from a customer to replace a defective tire.~~

~~However, the tax is not applicable in those instances in which a retailer allows the exchange of a defective tire for a new tire without an additional charge to the customer.~~

~~C. Sale of tires on a "national account." A sale of tires on a "national account" takes place when a tire manufacturer enters into a price agreement with a purchaser in which a Virginia tire retailer supplies the tires but the purchaser is billed directly by the manufacturer. The tax is applicable to new tires supplied to a customer in the Commonwealth on all national account sales and shall be collectible from the tire manufacturer and paid to the Department of Taxation.~~

~~D. Sale of tires for use on vehicle for resale. The tax is applicable to the purchase of new tires used to replace used tires on a vehicle prior to the sale of the vehicle, i.e., the purchase of tires by a car dealer to replace tires on a used vehicle, the price of which are included in the sales price of the vehicle, is subject to the tax when purchased and no additional tax is due when the vehicle is sold.~~

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~~23 VAC 10-250-22. Nontaxable sales.~~

~~The tax does not apply to (i) the sale of new tires from a place of business located outside the Commonwealth (for definition of "place of business in Virginia" see 23 VAC 10-210-2070), (ii) any tires attached to a vehicle or included within or on a vehicle as a spare before the time of sale of the vehicle that are included in the sales price of the vehicle, or (iii) the sale of a new tire by a Virginia retailer that is delivered to a purchaser in another state as provided in 23 VAC 10-210-780.~~

~~23 VAC 10-250-30. Collection of the tax.~~

~~A. Generally. The provisions of Chapter 6 (§58.1-600 et seq.) of Title 58.1 and the regulations promulgated thereunder relating to the collection of the retail sales and use tax shall apply to the tire tax, except that while the legal incidence of the retail sales and use tax is on the purchaser, the tire tax is imposed on the tire retailer and will remain his legal debt until paid. The tax may be passed on to the ultimate consumer, but is not to be added to or included in the sales price of a tire for purposes of computing the retail sales and use tax due, provided it is separately stated on the invoice to the purchaser.~~

~~B. Registration and filing requirements.~~

~~1. Generally. A retailer of tires is required to register for the tax with the Department of Taxation. A separate application for registration is required for each place of business in the Commonwealth.~~

~~Except as otherwise authorized by the Tax Commissioner, a retailer shall be required to file a tire tax return on a form prescribed by the Department of Taxation on a quarterly~~

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~~basis even if no tax is due. Returns will be due on or before the 20th day of the month following the close of the calendar quarter, i.e., April 20, July 20, October 20 and January 20.~~

~~2. Consolidated returns. Any retailer who has five or more business locations for which he is required to hold a certificate of registration within the Commonwealth may request permission to file a consolidated return to report and remit tire tax due for all locations. The election to file a consolidated return, however, does not eliminate the requirement that a certificate of registration be obtained for each business location.~~

~~23 VAC 10-250-31. Exceptions.~~

~~A. Generally. The tax does not apply to tires for:~~

~~1. Any device moved exclusively by human power. For example, tires for bicycles, garden carts, wheelbarrows, etc., are exempt from the tax; however, new tires for use on a moped, all terrain vehicle, trailer or motorcycle are subject to the tax.~~

~~2. Any device used exclusively upon stationary rails or tracks.~~

~~3. Any device used exclusively for farming purposes, except a farm truck licensed for highway use. For example, new tires for use on tractors are exempt from the tax.~~

~~B. Sales and use tax exemptions. The exemptions from the retail sales and use tax provided in §58.1-608 of the Code of Virginia are also applicable to the tire tax, except that replacement truck tires are subject to the tax. Replacement truck tires subject to the tax include, but are not limited to, tires purchased by common carriers, public service corporations, the Commonwealth of Virginia and any political subdivision thereof, fire~~

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~~departments and rescue squads and farmers. Replacement truck tires purchased by the United States are not subject to the tax.~~

~~C. Withdrawals from inventory. No exemption is allowed for the withdrawal of new tires from resale inventory, except that withdrawals from inventory that are (i) donated to nonprofit organizations or the Commonwealth of Virginia, except replacement truck tires, (ii) returned by a dealer to a manufacturer for credit or as an equivalent exchange of inventory, or (iii) otherwise exempt, are not subject to the tax.~~

~~23 VAC 10-250-32. Deductions.~~

~~A. Dealer's discount. As compensation for accounting for and remitting the tax, a retailer shall be allowed 5.0% of the amount of tax due and accounted for in the form of a deduction, provided the amount due was not delinquent at the time of payment.~~

~~Example: A retailer selling 1,000 tires subject to the tire tax during a quarter would report tax due of \$500 (1,000 tires X \$.50) and retain a dealer's discount of \$25 remitting the net amount of \$475, provided the tire tax return is timely filed and the tax is timely paid. The \$25 discount is calculated by multiplying the amount of tax due by 5.0% ($\$500 \times .05 = \25 .)~~

~~B. Other deductions.~~

~~1. Bad debts. A retailer may retain a credit for the amount of tax previously reported and paid on a return for an account which is found to be uncollectible. Such credit must be claimed on the return filed for the period in which the account is determined to be~~

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~~uncollectible. The credit shall be claimed in the same manner as set forth in 23 VAC 10-210-160.~~

~~2. Returned tires. A retailer may obtain a credit for the tax remitted on tires returned by a customer provided that the amount of the tax has been refunded or credited to the purchaser. The credit shall be claimed in the same manner as set forth in 23 VAC 10-210-3080.~~

~~23 VAC 10-250-40. Distribution of revenues.~~

~~All revenues from the tire tax, minus administrative expenses incurred by the Department of Taxation, will be deposited into the fund. The fund is administered by the Department of Environmental Quality as provided in §10.1-1422.1 of the Code of Virginia.~~

~~23 VAC 10-250-50. Provisions of Chapter 6 of Title 58.1 to apply mutatis mutandis.~~

~~The provisions of the Virginia Retail Sales and Use Tax Act (§§58.1-600 through 58.1-639) and the regulations promulgated thereunder (23 VAC 10-210-10 et seq.) are applicable to the tire tax, mutatis mutandis, except as otherwise provided by law or this chapter.~~